



COMMONWEALTH OF VIRGINIA
Department of Education
Division of Special Education and Student Services

**REGULATIONS REVISION PROCESS –
Virginia Regulations Governing Special Education
2006**

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The *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, March 2002, (Virginia Regulations) will be revised upon the issuance of the federal regulations implementing the *Individuals with Disabilities Education Improvement Act* of 2004 (IDEA '04). State policies and procedures must comply with the IDEA in order for Virginia to remain eligible for federal funding under Part B of the federal statute. Additionally, the Virginia Department of Education (VDOE) must comply with the Administrative Process Act (APA)¹ in revising the Virginia Regulations. The following serves as a framework for the process of revising these regulations.

Approximate Timeline for the Revision Process

From NOIRA until completion of the mandated APA steps, with no glitches, the revision process will take 19 months to complete.

¹ Code of Virginia, §§ 2.2-4000 through 2.2-4032.

FRAMEWORK FOR THE REVISION PROCESS

A. Drafting the proposed regulations

Preliminary work can begin as early as January 2006 on revising the Virginia Regulations based on the IDEA 2004 requirements.

- January 2006: The Directors in the Division of Special Education and Student Services, with assistance from their respective staffs, will assume responsibility for revising selected sections of the Virginia Regulations.
- Final draft revision is dependent on receipt of the revised federal regulations.

B. Comparison of Virginia Regulations with the IDEA '04 mandates

ODR/AS will prepare a document that details the state regulations that exceed the federal statute. Anticipated completion date: February 1, 2006.

Following receipt of the federal regulations

ODR/AS will prepare a document that details the state regulations that exceed the federal regulations.

C. Stakeholders Review

- Stakeholders will meet with VDOE staff in Richmond for a one-day facilitated meeting to provide input to the revision of the regulations. It is envisioned that the individuals identified below will assess the alignment of the state regulations with the federal statutory and regulatory mandates, and provide feedback regarding how the regulations might better meet the needs of students with disabilities in Virginia. The APA does not require this process; however, ODR/AS believes it is a critical step in the revision of these particular regulations.
- First Meeting Date: during the 30-day Public Comment Period.
- Stakeholders:
SSEAC Policy and Regulations Committee and other administrators and consumers

- Second Meeting Date: Following the 60-day Public Comment Period and prior to the final regulations being presented to the BOE.

Stakeholders will meet for a one-day facilitated meeting to provide input to the final regulations.

D. Web Connections

- Immediately following BOE approval of NOIRA

A web form will be available on the ODR/AS web site to receive public comment. Additionally, there will be a dedicated email account where public comments can be reviewed and documented.

- The website will also include a link to the Virginia Register for the postings relative to NOIRA and other Virginia Register notices about these regulations: register.state.va.us/
- After approval of the NOIRA from the Executive Branch, VDOE must send the NOIRA to the *Virginia Register of Regulations* (Virginia Register) via the Virginia Regulatory Town Hall (Town Hall).

E. 60-Day Public Comment Period - Hearings

In many cases, VDOE conducts one public hearing regarding proposed regulations, and if additional hearings are conducted, they are all conducted on the same night. However, given the comprehensive nature of the Virginia Regulations, and the high volume of anticipated public comment, VDOE will convene 5 public hearings. Scheduling may require staggered nights for these hearings.

- Sites:
Richmond, Northern Virginia, Wytheville, Charlottesville, Tidewater
- Required staff:
 - ✓ One BOE member
 - ✓ One Assistant Superintendent
 - ✓ 4 VDOE staffers [timekeeper; recorder; greeter/registration; floater]

Recommended: 1 SSEAC member from the Policy/Regulations Committee

- Recommended: VDOE has the technology to allow individuals to participate in the public hearing if they cannot be physically present at the hearing location. It is recommended that this technology be employed.

F. Summary of Public Comments

- ODR/AS is responsible for summarizing all public comments received during the revision process.
- January 2006: ODR/AS and VDOE's IT will design a database to be ready to summarize the comments. The database will be activated when the BOE approves the NOIRA. Each person/organization submitting public comments will be assigned a number. The database will maintain the names, addresses, and the assigned number. The database will track the issues addressed by the comments.²
- Summaries of the public comments will be provided to the VDOE drafters, the BOE, the SSEAC's Policy/Regulations Committee, and the Special Education Directors' Council.
- The APA requires that 5 days before the BOE's final action on the regulations, a summary of all public comments and VDOE's response to the public comment be provided to each person who submitted public comment.

G. ODR/AS is responsible for:

- coordination of the revision process
- editing the draft revisions
- review with the Attorney General's office
- presentations to the BOE, SSEAC, and SPED Directors Council
- coordinating the production of the final document with VDOE's media services

² Historically, VDOE has received a high volume of public comments regarding these regulations. For this reason, ODR/AS is reviewing the option of contracting with several law students and retired special education personnel to assist with downloading the public comments and summary information, subject to ODR/AS' final review.

- coordinating the publication, dissemination, translation, and posting of the document
- coordinating submission of the final regulations to OSEP
- training on the revised Virginia Regulations

ODR/AS will provide periodic updates on this process to the VDOE staff, SSEAC, Special Education Directors' Council, as well as post information to its web site.

JD/MCPS/